



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/817,055	03/27/2001	Steven J. Martin	95-463	9202
23164	7590	04/21/2005	EXAMINER	
LEON R TURKEVICH 2000 M STREET NW 7TH FLOOR WASHINGTON, DC 200363307			PEREZ DAPLE, AARON C	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/817,055	MARTIN ET AL.
	Examiner	Art Unit
	Aaron C. Perez-Daple	2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 07 February 2005.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-45 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-45 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

1. This Action is in response to Amendment filed 2/7/05, which has been fully considered.
2. Amended claims 1-44 are presented for examination.
3. This Action is FINAL.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. **Claims 8-10, 33-35 and 43-45** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, claims 8, 33 and 43 recite in line 1 that the host computer “has” the server, which the Examiner interprets to mean that the host computer comprises the server. The claims further require that the corresponding application resource is the server. These three elements (i.e. host computer, server, and application resource) are recited as distinct elements in claims 1, 26, and 36. Therefore, it is not clear how to interpret claims 1, 26 and 36, in light of the limitations from claims 8, 33 and 43. More specifically, the server and the application resource can not be claimed as both distinct elements and the same element. Also, the claims become unclear if the host computer comprises the server, because the server could be interpreted as sending and receiving requests from itself. More properly, it appears that the server should be communicating with the management resource of the host computer. For the purpose of applying prior art, the Examiner finds that any teaching of

processing a web request and generating a web response in a same server or host is sufficient to meet the limitations of the claims.

6. As dependent claims, claims 9, 10, 34, 35, 44 and 45 suffer from the same deficiencies as claims 8, 33 and 43.
7. **Claims 11-18** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, it is not clear to the Examiner whether the host computer is being claimed as comprising the server, or if the server is claimed as a separate entity from the host computer. In the latter case, the claim should more properly be directed towards the server and not the host computer. It is further not clear whether the “identified host computer” is being claimed as a separate host computer from the first recited host computer. For the purpose of applying prior art, the Examiner interprets that either a host computer comprising a server or a separate server are sufficient to meet the limitations of the claims. Also, the Examiner interprets that the “identified host computer” may be either the same host computer or a separate host computer.
8. As dependent claims, claims 12-18 suffer from the same deficiencies as claim 11.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. **Examiner's interpretation:** Based on claims 8, 33, 43, and the second paragraph of pg. 14 of the Remarks filed 2/7/05, the Examiner interprets that the host computer may comprise the server. In other words, the "server" and "host" may reside on the same physical machine.

11. **Claims 1, 26 and 36** are rejected under 35 U.S.C. 102(b) as being anticipated by Garvey et al. (US 5,774,667) (hereinafter Garvey).

12. As for claims 1, 26, and 36, Garvey teaches a method in a host computer having a server configured for providing web based management of host computers in communication via an open protocol network, the method comprising:

first receiving, by the server (remote access server 120, Fig. 1) and from a user, a web-based user request (SNMP request) specifying execution of a management operation by at least one selected host computer (remote access server 120 or remote PC's, Fig. 1) specified in the web-based user request (col. 3, lines 51-62), each host computer having an application resource for executing corresponding application operations and a management resource for executing the management operation (col. 5, lines 32-62);

first outputting from the server to the at least one selected host computer a web request generated by the server based on executing the web-based user request, the web request specifying a management command for execution of the management operation by the

management resource of the at least one selected host computer (col. 1, liens 46-59; col. 3, lines 51-62);

second receiving by the server from the at least one selected host computer a web response that specifies information based on execution of the management operation (col. 1, lines 46-59; col. 3, lines 51-62); and

second outputting by the server to the user a web-based user response based on the web response (col. 1, lines 46-59; col. 3, lines 51-62).

13. **Claims 1-3, 8, 11, 15-20, 25-28, 33-38, and 43-45** are rejected under 35 U.S.C. 102(e) as being anticipated by Hoyer et al. (US 6,339,750 B1) (hereinafter Hoyer).

14. As for claims 1, 26, and 36, Hoyer teaches a method in a host computer having a server configured for providing web based management of host computers in communication via an open protocol network, the method comprising:

first receiving, by the server (server 225, Fig. 5) and from a user, a web-based user request (SNMP or HTTP request, col. 8, lines 29-50) specifying execution of a management operation by at least one selected host computer (server 225, Fig. 5) specified in the web-based user request (col. 8, lines 25-28), each host computer having an application resource for executing corresponding application operations and a management resource (performance monitor 225, Fig. 3) for executing the management operation (col. 8, lines 51-67);

first outputting from the server to the at least one selected host computer a web request generated by the server based on executing the web-based user request, the web request specifying a management command for execution of the management operation by the

management resource of the at least one selected host computer (col. 8, lines 51-67; col. 12, lines 11-26);

second receiving by the server from the at least one selected host computer a web response that specifies information based on execution of the management operation (col. 8, lines 17-28); and

second outputting by the server to the user a web-based user response based on the web response (col. 8, lines 25-28).

15. As for claims 2, 27 and 37, Hoyer teaches the system and method of claims 1, 26 and 36, wherein the first receiving step includes receiving the web-based user request according to hypertext transport (HTTP) protocol (col. 7, lines 32-47; col. 8, lines 36-37).
16. As for claims 3, 28 and 38, Hoyer teaches the system and method of claims 2, 27 and 37, further comprising detecting a presence of the host computers on the open protocol network (col. 6, lines 43-55).
17. As for claims 8, 33 and 43, Hoyer teaches the system and method of claims 2, 27 and 37, wherein the at least one selected host computer is said host computer having the server as the corresponding application resource, the first outputting step includes outputting the web request to an HTTP interface within the server (Fig. 5; col. 7, lines 32-47; col. 8, lines 36-37).
18. As for claims 9, 34 and 44, Hoyer teaches the system and method of claims 8, 33 and 43, further comprising:

third receiving the web request from the HTTP interface (cluster manager CM/400, Fig. 3) by the corresponding management resource (performance monitor 225, Fig. 3) of the host computer having the server (col. 7, lines 32-47; col. 8, lines 29-67);
executing the management operation specified by the web request by the management resource of the host computer having the server (col. 7, lines 32-47; col. 8, lines 29-67); and
third outputting to the HTTP interface, by the management resource of the host computer having the server, the web response that specifies the information based on execution of the management operation (col. 7, lines 32-47; col. 8, lines 29-67).

19. As for claims 10, 35 and 45, Hoyer teaches the system and method of claims 9, 34 and 44, further comprising:
generating by the management resource of the server a second web request for execution of a second management operation by at least a second host computer of the open protocol network, the second management operation necessary for execution of the management operation (col. 8, lines 29-67);
fourth outputting the second web request by the management resource of the server to the at least second host computer (col. 8, lines 29-67); and
fourth receiving from the at least second host computer a second web response that specifies information based on execution of the second management operation, the web response generated based on the second web response (col. 8, lines 29-67).

20. As for claim 11, Hoyer discloses a host computer configured for providing web based management of host computers in communication via an open protocol network, a server comprising:

a web based interface (Fig. 4; browser 500, Fig. 5; col. 6, lines 15-27) configured for receiving a web-based user request from a user and outputting a web page, the web page interface configured for outputting a web request to an identified host computer and receiving a web response from the identified host computer (col. 8, lines 17-28; col. 8, lines 51-67); and

an executable server application (cluster manager CM/400, Fig. 3) configured for identifying the identified host computer specified in the web-based user request for execution of a management operation specified in the web-based user request and necessary for generating the web page in response to the web-based user request, the executable server application generating within the request an identifier that specifies execution of the management operation by a management resource (performance monitor 225, Fig. 3) within the identified host computer, the executable server application generating a web page based on results of execution of the management operation specified within the web response (col. 7, lines 31-47; col. 8, lines 29-67).

21. As for claim 15, Hoyer discloses the server of claim 11, wherein the executable application specifies within the web request at least one of a backup operation, a file transfer operation, and a status report operation as the management operation (col. 12, lines 11-26).
22. As for claim 16, Hoyer discloses the server of claim 11, further comprising a second management resource configured for executing a specified management operation in response to a second web request received by the web based interface, the second management resource configured for outputting to the web based interface a second response

that specifies second results of execution of the corresponding specified management operation specified by the second web request (col. 8, lines 29-67).

23. As for claim 17, Hoyer discloses the server of claim 16, wherein the identifier in the web request specifies the second management resource executed within the server (col. 8, lines 29-67).

24. As for claim 18, Hoyer discloses the server of claim 16, wherein the executable application and the second management resource each are configured for selectively responding to an HTTP request received by the web based interface based on a corresponding identifier within the HTTP request (col. 3, lines 19-38).

25. As for claim 19, Hoyer teaches a system configured for performing distributed computing operations, the system comprising:

a plurality of host computers (Figs. 2 and 3) configured for communication via an Internet protocol (IP) network, each host computer including:

(1) a web interface configured for sending and receiving web requests and web responses (col. 6, lines 15-27),

(2) a corresponding application resource configured for performing corresponding application operations (27cluster manager CM/400, Fig. 3; col. 7, lines 31-47), and

(3) a management client resource (performance monitor 225, Fig. 3) configured for executing prescribed management operations in response to respective web requests received by the corresponding web interface, the management client resource configured for outputting a web response that specifies results of execution of a selected management operation in response to a received web request (col. 7, lines 31-47);

wherein the application resource of one of the host computers is implemented as a web based management server resource configured for: (1) generating the web request for execution of the selected management operation by at least one selected host computer in response to reception from a user of a web request that specifies the selected management operation and the at least one selected host computer (col. 8, lines 29-67), and (2) outputting to the user a web-based user response based on the corresponding web response from the at least one selected host computer (col. 8, lines 25-28).

26. As for claim 20, Hoyer teaches the system of claim 19, wherein each web interface is configured for sending and receiving web requests and web responses according to HTTP protocol (col. 6, lines 15-27).
27. As for claim 25, Hoyer teaches the system of claim 20, wherein each management resource is configured for generating a second web request to a management resource of another one of the host computers for execution of a second management operation necessary for execution of the corresponding management operation by said each management resource, said another one of the host computers executing the second management operation in response to the second web request and returning to send each management resource a corresponding web response that specifies information based on execution of the second management operation (col. 8, lines 29-67).

Claim Rejections - 35 USC § 103

28. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

29. **Claims 4-7, 12-14, 21-24, 29, 30-32, and 39-42** are rejected under 35 U.S.C. 103(a) as being obvious over Hoyer in view of Chung et al. (US 6,012,090) (hereinafter Chung).

As for claims 4, 5, 12, 14, 21, 23, 29, 30, 39 and 40, Hoyer teaches specifying the host computers and available management operations for the host computers on the web page output to the user for the purpose of monitoring system performance (col. 8, lines 17-50). Hoyer further discloses the use of HTTP operations for sending and receiving requests (col. 7, lines 31-47; col. 8, lines 36-37). Although it is well-known and expected in the art, Hoyer does not specifically disclose using an HTTP *post* operation for sending and receiving requests. Chung, for example, teaches the use of HTTP post operations for sending and receiving web requests (col. 2, lines 44-63). It would have been obvious to one of ordinary skill in the art to modify Garvey and Hoyer by using an HTTP post operation for sending and receiving requests in order to provide efficient access to data on a network, as taught by Chung (col. 2, lines 44-63).

30. As for claims 13, Hoyer discloses the server of claims 12, further comprising a software resource configured for detecting a presence of the host computers on the open protocol network (col. 6, lines 43-55).

31. As for claims 6, 31 and 41, Hoyer teaches the system and method of claims 5, 30 and 40, wherein the first outputting step further includes specifying at least one of a backup operation, a file transfer operation, and a status report operation as the management operation (col. 1, lines 46-59; col. 12, lines 11-26).

32. As for claims 7, 32 and 42, Hoyer teaches the system and method of claims 6, 31 and 41, wherein the second receiving step includes receiving at least one of a backup acknowledgement, a transferred file, and a status report in response to the management operation specifying at least one of a backup operation, a file transfer operation, and a status report operation, respectively (col. 12, lines 11-26).
33. As for claim 22, Hoyer teaches the system of claim 21, wherein the one host computer further includes a software resource configured for detecting a presence of the host computers on the IP network (col. 6, lines 43-55).
34. As for claim 24, Hoyer teaches system of claim 23, wherein the web based management server specifies within the web request at least one of a backup operation, a file transfer operation, and a status report operation as the management operation (col. 1, lines 46-59; col. 12, lines 11-26).

Response to Arguments

35. Applicant's arguments with respect to the prior art rejections of claims 1-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

36. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US 6,122,664, note abstract and Fig. 1;

US 6714,976 B1, note abstract and Fig. 6;

US 2003/0014507 A1, note abstract and Fig. 2.

37. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron C. Perez-Daple whose telephone number is (571) 272-3974. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information

about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 4/14/05

Aaron Perez-Daple

 JOHN POLLANGESE
CIVIL PRACTICE ATTORNEY
U.S. PATENT & TRADEMARK OFFICE
1000 LEAVITT ST., SUITE 2100